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ABSTRACT

This guide has been written to help parents represent their children at New York City Board of Education hearings. The guide explains the rights of parents and children and explains the steps a parent should take in representing the child. It only applies to regular education high school suspensions. Sections of the guide explain: (1) reasons a student can be suspended; (2) the right to a suspension hearing; (3) what happens to the child before the hearing; (4) the prehearing conference; (5) whether to have a hearing or to stipulate to the charges; (6) the suspension hearing; (7) making your case; (8) deciding if your child should testify; (9) postponing or adjourning the hearing; (10) the school's witnesses; (11) the child's witnesses; (12) the school's responsibilities before suspending a student; (13) objections; (14) evidence; (15) delay between incident and suspension; (16) searches; (17) weapons; (18) drugs; (19) academic records and the posthearing dispositional phase; (20) timeline for the hearing officer to issue a decision; (21) what to do if parents are not satisfied; (22) continuing suspension for a fixed period of 6 to 30 school days; (23) extended suspension for 1 calendar year; (24) general equivalency diploma; (25) part-time school programs; (26) referral to special education; (27) records of suspensions; (28) petitioning for readmission; and (29) appeals. (SLD)

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Parent and Student Guide to High School Superintendent Suspension Hearings

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INTRODUCTION

Your child has been suspended from high school, so you have to make some difficult decisions. **Depending on how serious the charges are, your child may face either a year long suspension with placement at an alternative instruction site, or a forced transfer.** Your child may even have been arrested for the same incident. Before the Board of Education will even consider allowing your child to return to high school, you must either have a hearing if you disagree with the charges, or agree that the charges are true.

The first thing you must do is to make sure that this is a Superintendent's level suspension. Call the school and ask. Your child may only have been suspended by the school principal, in which case s/he may return to school in 5 days or less. However, if your child has been suspended by the Superintendent, you are expected to appear at a Board of Education hearing at 22 East 28th Street in Manhattan. This hearing has nothing to do with any court proceedings that may result from the incident.

You have a right to bring an attorney or advocate to the suspension hearing if you wish. However, it is not always possible to find an attorney or advocate who can represent your child. But you, as a parent, can be an effective advocate for your child if you know the rules and regulations governing high school suspensions and the procedures for suspension hearings.
We have written this manual to help you represent your

child at a Board of Education high school suspension hearing. Hearings can be complicated because there are many different laws and rules that apply. In this guide, we have tried to explain your and your child's rights and hope this will help you understand the steps you should take in representing your child. **Remember: this guide only applies to regular education high school suspensions, not junior high or elementary school suspensions.**

Wherever we have explained a rule, we have put next to the explanation the official number of the rule we are referring to. This is so that you will not only know your rights, but you will also know where your rights come from and you can refer to the rule yourself. All the rules are from "Chancellor's Regulations" and are labeled with an "A", then a number and then a page number. So, for example, you can say that, according to Chancellor's Regulation A-441 (CR A-441) page 14, the school has to call the parent immediately after the incident.

The only other source we refer to is a United States (US) Supreme Court decision about searching students in school. This case is called New Jersey v. T.L.O.

Unfortunately, schools don't always know or follow every rule carefully. After you read this manual, you may know more about your child's rights than some people at the Board of Education. That is the key to effective advocacy – knowing your rights and insisting on them. Read the parts of this manual that are relevant to your case carefully and try, as best you can, to advocate for your child.

We hope you will find this manual, and the important telephone numbers listed in the back, helpful. Please call us if you have questions or suggestions for making it better.

REASONS THAT A STUDENT CAN BE SUSPENDED

A student may be suspended from school when a principal believes that the student is so disruptive that s/he prevents the "orderly operation of classes" or poses a "clear and present danger" to her/himself or others. A suspension should not be used as a punishment. Suspensions should only be used to relieve an emergency situation, not to punish your child for being "badly behaved in general." Therefore, the charges against your child must be specific. They must include a time, a date, a place, and a brief but exact description of the incident.

YOU ARE ENTITLED TO A SUSPENSION HEARING

You are entitled to a hearing within 5 school days of your child's suspension. All high school superintendent suspension hearings are held at the Board of Education Hearing Office in (*Manhattan at 22 East 28th Street).* The hearing is your opportunity to go over the facts surrounding the incident. Some people go to their hearing with a lawyer or advocate, but most people do not. If you intend to bring an attorney or advocate with you, you must notify the hearing office 24 hours before the hearing. (If you don't provide 24 hours notice, it is possible that the hearing will be postponed and rescheduled and your child will remain out of school until

the new hearing date.) If you choose to have the hearing without representation, read the following information carefully.

WHAT HAPPENS TO YOUR CHILD BEFORE THE HEARING

Your child should not miss any school work while waiting for the hearing to be held, or while waiting for the decision after the hearing. **No matter how old your child is, s/he will be assigned to attend an "outreach" center. S/he should be given all homework assignments while s/he is out of school on suspension, as well as the opportunity to take or make up any exams.** You may have to get this work from the school yourself by going and asking for it.

At this time you should also ask for a copy of your child's records. The records will consist of two things: everything to do with the suspension (witness statements, incident report, your child's statement), and your child's complete academic records (grades, teacher comments, attendance records, credits, etc.).

PRE-HEARING CONFERENCE

On the day of the hearing, before the actual hearing starts, you will be called into the hearing room to meet with the Hearing Officer without anyone from the school present. The Hearing Officer is a Board of Education employee, and is usually not an attorney. S/he will hear the case and make a recommendation to the Superintendent concerning your child's educational future. At the pre-hearing conference,

s/he will not discuss the details of the case with you, but will tell you your rights and explain that you can either agree or disagree with the charges.

Sometimes, hearing officers hold "group" pre-hearing conferences where other students and parents are present. If you or your child are uncomfortable with this, you have the right to request an individual pre-hearing conference.

DECIDING TO HAVE A HEARING OR TO "STIPULATE" TO THE CHARGES

If you disagree with the charges because you believe your child is innocent, or you think there are other important details to consider (for instance, your child did not start the incident or only hurt someone by accident, or the school did not fulfill all its obligations outlined in "School Responsibilities," below), you should say you want to go ahead with a hearing.

If you feel the school made a reasonable decision in suspending your child, then you may not wish to argue against the charges. This is called ***"pleading no Contest" or "stipulating to the charges."*** If you do this, the Superintendent will make a decision about your child's educational future within 2 school days. You can request that your child be "reinstated" (allowed to return to the same school), or transferred to a specific school and you can ask that any records of the suspension be sealed and expunged (see p.16), but the Superintendent does not have to go along with your request. Call the

Hearing Officer if you do not receive a mailgram decision within 2 school days.

The mailgram will contain the Superintendent's decision concerning whether and where your child will attend school in the future. If you are satisfied with the decision, accept the offer by following the instructions on the mailgram setting an appointment for a conference at the school your child will now be attending. Bring a copy of your child's academic records with you. You do not need to bring a copy of your child's discipline records (sometimes called "anecdotal records") with you to the new school. If the Superintendent offers a school you do not want, ask for another school. If s/he offers a transfer to a school that you think would be harmful to your child, and refuses to change the offer, you have 3 **days to "withdraw the stipulation" or "withdraw your pleas of no contest" and ask to have a hearing.** The fact that you stipulated cannot be used against you in the new hearing.

THE SUSPENSION HEARING

The suspension hearing is held in a small, private room. You, your child, and your witnesses sit on one side of a long table. School personnel and witnesses sit on the opposite side. The Hearing Officer is seated at one end of the same table. When witnesses are called, they are asked to sit at the opposite end. On the table will be tape recording equipment, including several microphones. Another employee of the Hearing Office will be in the room to tape everything that is said during

the hearing.

The suspension hearing is like an informal court hearing. **The school must prove that your child did what they have charged.** It must bring people who have first-hand knowledge of the incident, such as student witnesses, teachers, or security guards, to the hearing to testify. If the school does not bring the "complaining witness," you should ask that the charges be dropped. If none of the school's witnesses have direct first hand knowledge of the incident, the charges should be dismissed. **The school may also give the Hearing Officer written documents, but only those that it has shown you at least the day before the hearing.**

You will have the opportunity to question all the school's witnesses. Ask them anything you can think of that will help you better understand what happened. For instance, if a witness says s/he saw your child punch another student, ask how many people were at the incident. Maybe s/he is not positive it was your child, or maybe there were so many people that s/he could not see the incident clearly.

The Hearing Officer will also ask questions, but cannot act as a representative for you or the school. S/he should question witnesses impartially to gather the facts about the incident.

Only the specific charges may be discussed. Any information about any trouble your child may have had in the past has nothing to do with the

charges now, and should not be brought up since it will only prejudice the Hearing Officer against your child.

After the school presents all its witnesses, you may have your own witnesses testify and you may present any documents that will help your case. After all the witnesses have testified, each side can make a statement ("closing argument") summarizing its most important points. You should repeat all the reasons why you think the school has not proven its case and the charges should be dismissed.

The Hearing Officer has the responsibility of listening to all the testimony and deciding what actually happened on the day of the incident. S/he then makes a recommendation to the Superintendent concerning what should happen to your child.

MAKING YOUR CASE

Basically, by questioning witnesses you are trying to make two types of points. The first type is why you feel your child is innocent. For instance, maybe your child is charged with assaulting someone but, in fact, that other person started it or, in fact, nobody was even hurt. Or maybe your child is charged with threatening someone with a weapon, but s/he did not actually try to hurt anyone with it. Or perhaps your child simply was not involved in the incident and this is a case of "mistaken identity."

The other type of point you should try to make is about mistakes made by the school (see "School's Responsibilities," below). For instance, the school might not have investigated the incident, or might not have given your child the chance to tell her/his side of the story. Someone from the school, known as the "investigating dean," will be at the hearing. The investigating dean is in charge of the case and you should ask her/him all your questions about how the school handled the case. The school must follow certain procedures to protect your child's rights ("due process"). If it fails to do so, you can argue that the charges should be "dismissed," because the school did not give your child her/his due process rights.

DECIDING IF YOUR CHILD SHOULD TESTIFY

You must decide whether your child will testify. This is a hard decision to make. If your child was arrested for the same incident, it might be wise <u>not</u> to have her/him testify, because the record of the hearing could be used negatively in court. If you have an attorney for your child's criminal case, s/he will advise you whether or not your child should testify at the suspension hearing.

If your child was not arrested, decide whether her/his testimony is more likely to help or hurt your child. If your child is innocent, it will help to have his/her explanation of the incident. However, if your child is charged with something s/he <u>did</u> do, it is often

best not to have her/him testify because if your child testifies, s/he will have to tell the truth and admit guilt.

Remember, it is the school's job to prove its case. Let it do so without your help. Your child has a constitutional right not to testify against her/himself. The Hearing Officer may not assume anything bad by your child's silence.

POSTPONING OR "ADJOURNING" THE HEARING

Either you or the school may ask that the hearing be put off for a few days. You may wish to postpone in order to get witnesses or a lawyer. The school might also need to adjourn.

If the school postpones the hearing for any reason, your child should go back to school or with your consent be sent to another school while waiting for the new hearing date. It is usually better for your case if your child is back in the original school when the hearing takes place.

Chancellor's Regulation
A-441
p. 20

If you have to postpone the hearing, your child's suspension will be continued and s/he will stay out of school but should continue

CR A-441
p. 21

to receive alternate education
at the outreach center until
the new hearing occurs
(unless you and the school agree
that s/he may return).

If you fail to notify the hearing office 24 hours in advance that your child will be represented by an advocate/attorney, the school may request a postponement, and your child's suspension will be continue and s/he will stay out of school until the new hearing occurs.

THE SCHOOL'S WITNESSES

The school will bring people who were involved in the incident and/or saw it to the hearing. The school will also have a witness (the investigating dean) testify about how it investigated the incident and conducted the suspension. However, the school can't make its case with this witness alone unless s/he also saw the actual incident.

If no one is there from the school who actually saw the incident, ask that the charges be dismissed.

CR A-441
p. 22

YOUR WITNESSES

You may bring any witnesses you like to the hearing, including students or school employees who were present and who support your child's version of the

incident. You can ask them to come, or you can ask the Hearing Officer to "subpoena" them. A subpoena is a letter sent from the Hearing Office asking a witness to come to the hearing. You may postpone the hearing to get witnesses, but your child will remain on suspension.

Witnesses can be very helpful in proving your case. A witness might help you prove a number of things (for example, that your child was not involved in the incident at all, didn't start it, or was provoked, etc.) **Always talk to your witnesses before you ask them to come to the hearing. Find out exactly what they know.** You might decide that a person will not be a good witness after your talk. **Do not use witnesses whose stories do not agree with your child's testimony.**

You may call a witness who can show how the school made mistakes. Someone from your family may testify that the school never called to say your child was suspended, or would not give you copies of your child's records when you asked for them.

If you find good witnesses who cannot come to the hearing, ask them to write, sign and date a statement about what happened. Ask the Hearing Officer to allow you to read it aloud at the hearing. Keep a copy for your records and give the original to the Hearing Officer as evidence. (See section on "Evidence.")

THE SCHOOL'S RESPONSIBILITIES BEFORE SUSPENDING A STUDENT

Before suspending a student, the school has certain obligations. If it fails to take these steps, it may not have acted fairly to your child. Ask the "investigating dean" whether the school took each of the following steps:

	Chancellor's Regulation
The school must try to avoid suspension by first trying to discuss any potential problems with you and your child. If your child has had problems before, ask the school what steps were taken to solve them before resorting to a suspension.	CR A-441 p. 2-4
The school must give the student the chance to tell her/his side of the story.	CR A-441 p. 14
The school must take a written statement from everyone involved, and at least two witness statements from people who were not involved in the incident but who saw it. The school should take statements from every person who witnessed the event.	CR A-412 p. 4; CR A-441 p. 14
The school must call the parent IMMEDIATELY after the Superintendent authorizes a suspension.	CR A-441 p. 16

The school must send written, specific charges by regular and certified mail IMMEDIATELY.

CR A-441
p. 16

If your child is arrested, the school must contact you immediately, and have someone accompany your child to the police station and stay with him/her until you get there or for a reasonable time. That person should not be someone who was directly involved in the incident.

CR A-412
p. 13

OBJECTIONS

If anybody says anything while questioning a witness or while testifying about the incident that you think is unfair, or anybody asks a question unfairly, say "I object." If the Hearing Officer agrees it was unfair, s/he will "sustain" the objection and say that the question must not be asked or must be asked differently. If the Hearing Officer disagrees, s/he will "overrule" you and the discussion will continue. **You must always be ready to state the reason you think something is unfair.**

Irrelevant:

You may object that something is unfair because it doesn't involve the charges. (For example, it is unfair to say your child is "always in trouble" since it has nothing to do with the charges.)

Hearsay:

You may object if the person speaking does not really know anything about the charges and is only repeating what s/he was told about the incident (for example, s/he was not there when the incident occurred). This is "hearsay" (see "Evidence," below).

Leading Questions:

You may object if a question suggests the answer that the questioner wants the testifier to give, like "Didn't you see so and so hit someone and cause a huge fight?" That question is unfair because it "leads the witness." A fair way to ask that question is simply, "What did you see?"

Badgering, asked and answered, argumentative

You may object if the questioner repeats the same question over and over or uses any angry or argumentative style in asking questions.

EVIDENCE

You or the school can give written documents to the Hearing Officer as evidence. Handing in the documents is called "entering" or "admitting" evidence. As with oral testimony, you can object to anything the school seeks to enter which you think is unfair. The school will probably offer witness statements and other material related to the incident. You also can offer

witness statements. If, for instance, you speak to people who saw the incident, but who cannot come to the hearing, ask them to write a statement. Make sure they sign and date it.

Chancellor's Regulation
CR A-441
p. 21

All of the school's evidence must be given to you before the hearing. Object to any evidence you have not seen before.

All evidence must be relevant to the incident. Object to any documents that have nothing to do with the incident (unless they are helpful to your case).

Direct Evidence

CR A-441
p. 22

The school must prove its case by "direct evidence." That means that a witness from the school must have first-hand knowledge about the incident. The witness has to have been there. It is not enough to repeat what someone else said. If no one present has first-hand knowledge, ask that the charges be dismissed.

Hearsay Evidence

When someone repeats what another person said, it is called "hearsay." Object to hearsay evidence. The hearing officer will tell you that hearsay is "admissible," which means that it can be considered. But the school can't win its case only on hearsay. Someone must be present who was at the incident. If the school does not have testimony from an actual witness, ask that the charges be dismissed.

CR A-441
p. 22

Witness statements are hearsay evidence. You, as well as the school, can submit into evidence written, signed, and dated statements of people not present at the hearing.

CR A-441
p. 22

DELAY BETWEEN INCIDENT AND SUSPENSION

A suspension is supposed to stop an "emergency" situation. It is not supposed to be used simply as a punishment. For this reason, a suspension must be immediate. A student no longer "poses a danger" if the incident occurred several weeks ago. Schools often say that the

suspension was delayed because they were "investigating." Ask for a detailed explanation of all the things the school did, and why it took so long.

If there was a delay of more than a day or two between the incident and the suspension, argue that it was not "immediate" and that your child was no longer a danger. Point out that your child was back in school after the incident and nothing else happened.

CR A-441
p. 15

SEARCHES

The United States Supreme Court has ruled that it is illegal to search students in school unless the school official has a "reasonable suspicion" that s/he will find evidence that the child broke a law or school rule.

Searching a student is an invasion of privacy. Even if s/he has done something wrong, the school does not automatically have the right to search her/him, or her/his possessions (for instance, bookbags). Participating in a fight or failing to carry a late pass does not create a "reasonable suspicion" that the student is carrying something illegal or breaking a law or school rule. The school must have a <u>specific</u> reason to believe that if they search the student, they will find something. And just because a school finds something illegal on a student does not mean

it was right to search the child in the first place. If you feel the search was improper, ask for the charges to be dismissed.

If the school offers as evidence something found during a search of your child, and you feel that the school did not have a good reason for the search in the first place, object to it being entered into evidence.

US Supreme Court
N.J.v. T.L.O.

Before conducting a search, the school must have information specific to your child. For instance, they can't simply search all children found fighting.

CR A-432

The extent of the search must be reasonable. A search that is unnecessarily "invasive" (or thorough) may be an illegal invasion of your child's privacy. For example, if the school has a valid reason to believe that your child has a weapon in her/his bookbag, there is no reason to pat her/his body down.

US Supreme Court
N.J v. T.L.O.

WEAPON

If your child is charged with possession of a weapon, the school must present it at the hearing, unless they have given it to the Office of School Safety or the police. If the police have the weapon, the school must present a voucher for it at the hearing, along with a xerox copy of the weapon itself. The voucher serves as proof of the existence of the weapon and describes it. If the weapon was given to the Office of School Safety, that office should bring it to the hearing.

If the school does not bring the weapon, or a xerox and a voucher, say that it cannot prove its case and ask that the charges be dismissed.

CR A-441
p. 12

There are two types of weapons. The first type are those that are illegal to carry, like guns and most knives. The second type are things that could be used as a weapon, but aren't necessarily dangerous, such as a nail file. If your child is found with a weapon that isn't necessarily dangerous and s/he wasn't using it to hurt anyone, argue that the charges should be dismissed.

CR A-441
p. 10-12

DRUGS

If your child is charged with possessing drugs, the school must prove that the substance is, in fact, a drug. (Also consider how it found drugs on your child. See the section on "Searches.") If the charge is possession of marijuana, ask the school how it is sure it is in fact marijuana. For instance, how do they know it isn't tobacco? Did they smell it burning? Do they know what marijuana smells like?

If the charge is possession of another drug, school officials must send it out to a lab for analysis. Charges may not be based on a guess about an illegal substance. If the school does send it out for analysis, it will need to postpone the hearing and reinstate your child until the new hearing date. You should be given a copy of the lab results before the new hearing begins.

If your child is charged with possessing or taking drugs, and those drugs were medication prescribed by a doctor, bring the prescription and a letter from the doctor to the hearing and introduce them into evidence.

ACADEMIC RECORDS AND THE POST-HEARING DISPOSITIONAL PHASE

After the part of the hearing when the facts of the case are discussed, the Hearing Officer will ask for "dispositional" material. The school will hand in academic information, such as grades and teachers' comments. Check the records to make sure that you already have everything given to the Hearing Officer.

You should have been notified in writing any time the school wrote something negative on your child's school record. If you were never made aware of negative comments on the records, object to their being handed in as evidence.

CR A-820
p. 14
CR A-441
p. 15

You may also submit letters of recommendation or other materials to help the Superintendent make a decision about your child's future placement. You may make a specific request, like having your child returned to the same school or transferred to a different school. Let the hearing officer know if there is a specific school(s) to which you would like your child transferred (but note that the Superintendent does not have to honor your request.) If your child did not receive school work during the suspension, or missed any exams, ask the Hearing Officer to help make arrangements to make up missed work. Remind the Hearing Officer that your child has already missed many days of school, and you don't want her/him to fall further behind. Also request that any record of the suspension be sealed and expunged from your child's permanent school records.

At the end of the hearing, ask for a "transcript" (a written record taken from the tape recording of the hearing). It will be sent to you at no charge and will be helpful if you want to appeal the case. (See "Appeal" section.) The Hearing Officer will first decide whether your child is innocent or guilty, based on the evidence. If the charges are upheld, s/he will look at the academic

records to help the Superintendent make a decision about your child's education.

TIMELINE FOR THE HEARING OFFICER TO ISSUE A DECISION

You should receive a mailgram two working days after the hearing, letting you know whether the charges have been "sustained" (found to be true) or "dismissed" (found to be untrue). After 5 school days, you should receive a 2 or 3 page letter explaining the Hearing Officer's decision.

If the Hearing Officer does not give you a decision within these time guidelines, your child may return to school while waiting for the decision.

CR A-441
p. 34

(NOTE: Schools sometimes get very upset when parents try to return their children to school for this reason. Be prepared for resistance, but remember that you are within your rights.)

WHAT TO DO IF YOU ARE NOT SATISFIED WITH THE DECISION

If the charges are found to be untrue, your child may return to the same school, although you can request a voluntary transfer to another school if you think it would be better for your child.

If the charges are found to be true, the Superintendent may:

- **reinstate** your child in the same school (this is rare);
- **transfer** your child to another school;
- **continue the suspension** for 6-30 more school days;
- **suspend** your child from school for a calendar year with the ability to petition for readmission after 30 to 90 days (during the year your child will attend an alternative high school);
- **suspend** your child from school for a calendar year to be placed in a Second Opportunity School without the ability to petition for readmission; or
- **refer your child for a special education evaluation.**
- in rare cases and only for students 17 or older, **expel** your child for one school year (only in cases of possession of firearms or other serious offences).

If you do not agree with the decision because you do not like the school your child was transferred to, ask the Hearing Officer for another school. If you disagree entirely, you should write to the Chancellor "appealing" the decision (see "Appeal").

CONTINUED SUSPENSION FOR A FIXED PERIOD OF 6-30 SCHOOL DAYS

The Superintendent may authorize a continued

suspension for a fixed period of 6-30 school days (up to 6 weeks of school). During this period the student is entitled to alternate education that must be "substantially equivalent" to his/her school program. At the end of this period your child will either be reinstated to his/her own school or transferred to another school.

EXTENDED SUSPENSION FOR ONE CALENDAR YEAR

Certain offenses carry a maximum penalty of a calendar year suspension. They include:

- possessing or using weapons
- threatening someone with a weapon
- using force against or inflicting serious injury upon school personnel
- using extreme force against students or others
- engaging in behavior which creates a substantial risk of or results in injury (e.g. arson, riot)
- selling or distributing illegal drugs or controlled substances
- possessing or using illegal drugs, alcohol, or controlled substances without appropriate authorization.

All students, regardless of age are entitled to alternate education during the suspension period. They must be provided with education that is "substantially equivalent" to the education they were receiving prior to the suspension.[1]

By law, students 16 and younger must be in school. So, if your child is 16 or younger the superintendent may

say that your suspended from school for one calendar year, but the superintendent is legally obligated to put your child back in a full-time, diploma bound school program (not a GED, see "GED" below.) An appointment will be scheduled for you and your child to meet with someone from the Board of Education.

They will offer you a new school, most likely one in the Alternative Division. (These are smaller, diploma granting schools, geared towards students who would benefit from a less traditional educational environment).

If your child is 18 or over, s/he is still entitled to receive alternate education during the suspension period. It is possible that your child will either continue to be assigned to an Outreach Center or transferred to a part-time or non-diploma bound program for the calendar year suspension periods (Advocates for Children does not believe that such assignments meet the requirement that your child be provided with "substantially equivalent" education). If this happens, call the Superintendent and ask whether your child can be placed in a diploma bound alternative school program.

No matter how old your child is, as long as s/he is under 21, if suspended for one calendar year, you may also "petition for readmission" or "appeal" (see sections below).

The penalty for calendar year suspension is not mandatory or automatic. The Superintendent must take into consideration your child's prior record, the circumstances surrounding the incident, and his/her age and maturity.

GENERAL EQUIVALENCY DIPLOMA (GED)

A GED is an equivalency diploma. By law, the Board of Education may not place a student 17 or younger in a GED program. If your child is 18 or older, s/he may only be sent to a GED program if you request it, or if s/he is suspended. Make sure you know whether your child is being sent to a diploma-bound program or a GED. It is not always clear since some GED programs operate in regular high schools. Ask before accepting the placement.

PART-TIME PROGRAM

If your child is 18 or older, s/he may be sent to a part-time or evening program.

REFERRAL TO SPECIAL EDUCATION

If your child is referred for an evaluation for possible handicapping conditions, you have to decide whether you agree to have your child tested. This is a difficult decision and we suggest that you call Advocates for Children for advice. Even if you refuse to have your child tested, s/he must be returned to school, either immediately or at the end of the suspension period.

RECORDS OF SUSPENSIONS

The Superintendent will decide whether the record of this suspension will be permanently noted on your child's school record, or will be "sealed and/or expunged." "Sealed means that the record of the suspension will be

kept separate and "expunged" means that, if your child does not get suspended again, the record of the suspension will be destroyed upon leaving or graduating from the New York City school system. If the decision is to permanently note the suspension on your child's record, you may appeal that part of the decision. (See "Appeals" section.)

PETITIONING FOR READMISSION

If your child is suspended for a calendar year, the Superintendent will give you a date, between 30 and 90 days from the suspension, by which you may "petition for early readmission to a regular N.Y.C. public school." To petition for readmission, you must submit letters of recommendation, and a statement by your child saying what s/he has done during the expulsion and promising not to violate the discipline code in the future. You must also tell the Superintendent why your child wants to go back to school, and what your child's "educational plans" are if readmitted. (This can simply mean what school you would like your child to attend and why, and what your child plans to do after graduating from high school.)

After receiving your petition, the Superintendent will ask you and your child to come to a conference. This conference must be scheduled no later than 10 days after the Superintendent receives your petition. You will then be told if your child is to be returned to school, or whether you must petition again at a later date.

Please call Advocates for Children if you would like help with your petition. We will send you a sample copy.

APPEALS

You may appeal any decision by writing a letter to the Chancellor carefully explaining, point by point, all the reasons you believe your child is innocent, and all the mistakes the school made in suspending your child. If you feel the Hearing Officer was unfair, discuss why. Go back over all the things in your child's favor. If your child has never been suspended before, point that out. Be sure to state that your child has already suffered enough and that the punishment is too harsh.

The best way to prepare an appeal is to read through the transcript of the hearing and make notes. The appeal can only address issues you or the school raised at the hearing.

If the Chancellor denies your appeal, you may appeal to the Central Board of Education, and then to the New York State Commissioner of Education. Each decision you receive will include the deadlines by which you must take your appeal to the next step.

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